

Before the  
Federal Communications Commission  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

MAY 14 1997

In re Applications of	)	MM Docket No. 97-75
	)	
PUBLIC BROADCASTING FOUNDATION	)	
OF NORTHWEST OHIO	)	File No. BPED-950210MB
Channel 220, Defiance, Ohio	)	
	)	
	)	
	)	
For Construction Permit for	)	
a new Noncommercial Education	)	
FM Station	)	
	)	File No. BPED-950511IE
MARANATHA CHRISTIAN	)	
FELLOWSHIP, INC.	)	
Channel 220A, Howe, Indiana	)	
	)	
For Modification of Facilities	)	
of Station WQKO-FM	)	
Howe, Indiana	)	
	)	
To: The Honorable Joseph Chachkin		
Administrative Law Judge		

**MASS MEDIA BUREAU'S COMMENTS ON**  
**JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT**

1. On May 2, 1997, Public Broadcasting Foundation of Northwest Ohio ("Foundation"), and Maranatha Christian Fellowship, Inc. ("Maranatha") filed a joint request for approval of settlement agreement. The Mass Media Bureau submits the following comments.

2. The applicants seek approval of a settlement agreement which contemplates the withdrawal of Maranatha's application for minor modification of Station WQKO, Howe, IN (File No. BPED-950511IE) and grant of Foundation's application for a new noncommercial educational (NCE) FM station providing first service to Defiance, OH (File No. BPED-

No. of Copies rec'd  
LIA/BCDE

027

95021MB). The parties state that Maranatha proposes to withdraw its application in exchange for the payment of its legitimate and prudent expenses by Foundation.

3. Review of the settlement agreement and accompanying exhibits reveals that the applicants have filed all the necessary documentation required by Section 73.3525(a)(1) through (a)(6) of the Commission's Rules, which implements Section 311(c)(3) of the Communications Act of 1934, as amended. Specifically, in addition to the agreement, the parties have filed appropriate declarations from a principal of each applicant. The documents indicate that the respective applications were not filed for an improper purpose and that grant of the joint request will serve the public interest by terminating this proceeding and expediting the provision of first local NCE radio service at Defiance, Ohio.

4. Section 73.3525 (a)(5) requires that each party seeking approval of a settlement agreement submit "[a]n itemized accounting of the expenses for which it seeks reimbursement . . . ." The Commission has interpreted this section as requiring the parties to provide a brief description of the nature of the expenses and their connection with the settlement process. See Amendment of Section 73.3525, 6 FCC Rcd 85, 91 n.54 (1990). The Commission also requires that the description of expenses be accompanied by affidavits signed by principals of the parties attesting that these expenses were legitimate and prudently incurred in connection with the application in question. See Re-evaluation of Standards for Professionals Seeking Reimbursement Pursuant to Rule 73.3535, 88 FCC 2d 1047 (1982). The president of Maranatha submitted a declaration attesting to the amount of the engineering expenses it incurred with respect to the preparation and prosecution of the application and provided an itemized list of expenses. The

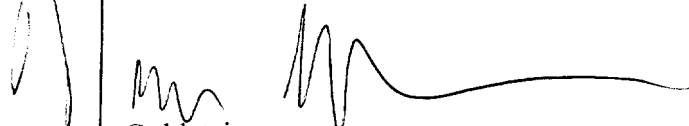
documents submitted by Maranatha provide the detail contemplated by the Commission's Rules with respect to its engineering expenses. The Bureau does not object to these expenses as they appear to be appropriate engineering expenses incurred in the course of preparing Maranatha's application. Maranatha has no legal expenses as it did not retain counsel during this proceeding.

5. The Hearing Designation Order, DA 97-376 (MMB released Feb. 24, 1997), specified a Section 307(b) issue to determine which of the proposals would better provide a fair, efficient and equitable distribution of radio service. The settlement agreement is expressly contingent on a finding that the dismissal of the Maranatha application will comply with the statute and that republication in accordance with Section 73.3525 (b) of the Commission's Rules is not required. The dismissal of Maranatha's application for minor modification of Station WQKO in Howe, Indiana will not leave the community without radio service and will enable Foundation to provide a first service to Defiance, Ohio. The settlement agreement meets the objectives of Section 307(b) because no other party could apply to modify the facilities of Station WQKO-FM. Hence, there is no need for republication

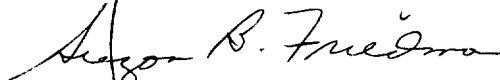
6. Accordingly, the Bureau supports grant of the joint request for approval of settlement agreement filed by Foundation and Maranatha, dismissal of Maranatha's application, grant of Foundation's application, and termination of this proceeding.

Respectfully submitted,

Roy J. Stewart  
Chief, Mass Media Bureau



Norman Goldstein  
Chief, Complaints & Political Programming Branch



Suzan B. Friedman  
Attorney  
Mass Media Bureau

Federal Communications Commission  
2025 M Street, N.W., Suite 8210  
Washington, D.C. 20554  
(202) 418-1430  
May 15, 1997

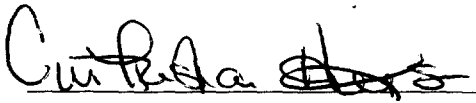
**CERTIFICATE OF SERVICE**

CurTrisha Hicks, a secretary in the Enforcement Division, Mass Media Bureau, certifies that she has on this 14th day of May, 1997, sent by regular U.S. mail, U.S. Government frank, copies of the foregoing "**Mass Media Bureau's Comments on Joint Request for Approval of Settlement Agreement**" to:

Paster Ron Hyer, President  
Maranatha Christian Fellowship, Inc.  
6200 E. State Road 120  
Howe, IN 46746

Lawrence M. Miller  
Schwartz, Woods & Miller  
1350 Connecticut Avenue, N.W.  
Suite 300  
Washington, D.C. 20036-1717

Administrative Law Judge Joseph Chachkin  
Federal Communications Commission  
2000 L Street, N.W. , Suite 224  
Washington, D.C. 20554

A handwritten signature in black ink, appearing to read "CurTrisha Hicks", written over a horizontal line.

CurTrisha Hicks